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AN ACT

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RELATING TO LAW ENFORCEMENT; PROVIDING FOR THE DISPOSITION OF UNCLAIMED PERSONAL PROPERTY THAT COMES INTO THE POSSESSION OF A PEACE OFFICER; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-1-14 NMSA 1978 (being Laws 1983, Chapter 50, Section 2, as amended) is amended to read:

"29-1-14. UNCLAIMED PROPERTY--AUTHORITY TO SELL--NOTICE OF SALE--DEADLY WEAPONS, CONTROLLED SUBSTANCES AND OTHER CONTRABAND EXCEPTED.--

A. Any personal property having a fair market value greater than fifty dollars (\$50.00) that has been unclaimed by the true owner, is no longer necessary for use in obtaining a conviction, is not needed for any other public purpose and has been in the possession of a state, county or municipal law enforcement agency for more than ninety days shall be sold at public sale.

B. Prior to the sale of seized personal property, the law enforcement agency shall make a reasonable attempt to notify the original owner of the seized personal property and shall publish a notice of the sale of unclaimed personal property once each week for two successive weeks. The notice shall contain:

- (1) a brief description of the personal property to be sold;
- (2) the time and place of the sale; and
- (3) the name of any purported owner, if known.

C. If prior to the sale the true owner identifies the personal property to be sold and offers strict proof of identity and ownership of the personal property, the personal property shall be returned to its true owner.

D. Any personal property offered but not sold at a public sale may be destroyed or otherwise disposed of upon application to the district court, ex parte and without notice.

1 E. Any personal property sold at public sale, claimed by its true owner, S
2 destroyed or otherwise disposed of pursuant to this section shall be removed from the B
3 inventory record kept by the law enforcement agency. 7

4 F. Any personal property having a fair market value equal to or less 8
5 than fifty dollars (\$50.00) that has been unclaimed by the true owner, is no longer P
6 necessary for use in obtaining a conviction, is not needed for any other public purpose a
7 and has been in the possession of a state, county or municipal law enforcement e
8 agency for more than ninety days may be destroyed, except as otherwise provided by 2
9 order of the district court upon ex parte application without notice.

10 G. Any alcoholic beverage that has been unclaimed by the true owner,
11 is no longer necessary for use in obtaining a conviction, is not needed for any other
12 public purpose and has been in the possession of a state, county or municipal law
13 enforcement agency for more than ninety days may be destroyed or may be utilized by
14 the scientific laboratory division of the department of health for educational or scientific
15 purposes.

16 H. This section shall not apply to deadly weapons or items of
17 significant historical value, poisons, controlled substances or other contraband lawfully
18 seized as evidence for the prosecution of a violation of statute or ordinance or which
19 has otherwise come into the lawful possession of a state, county or municipal law
20 enforcement agency and has been in possession for more than ninety days. Once it
21 is determined by the law enforcement agency that any property enumerated in this
22 subsection is no longer necessary for use in obtaining a conviction or is not needed
23 for any other public purpose, the law enforcement agency may apply to the district
24 court, ex parte and without notice, for an order authorizing destruction or other
25 disposition of the property; provided that a state, county or municipal law enforcement
agency shall allow state museums access to agency inventory records for the purpose
of inspecting and selecting firearms that are appropriate to state museum firearm
collections. The court shall grant the application if the proposed destruction or
disposition is in the best interest of the public safety and welfare.

1 I. This section shall not apply to any personal property for which a
2 notice of intent to claim has been served. Any victim, as defined in Section 31-26-3
3 NMSA 1978, or alleged victim shall be entitled to serve notice of intent to claim
4 ownership of any personal property upon that person, agency or entity in actual
5 custody or control of the property. Nothing in this subsection shall be construed to
6 limit, interfere with or affect the rights or remedies of the rightful owner of any seized
7 property."

7 Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act
8 is July 1, 2003.

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